

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.6115 OF 2005

Sahebrao Nathu Rajpure

..Petitioner.

Vs.

The District Rehabilitation Officer, Satara

& Ors.

..

Respondents.

....

Mr. P.J. Shinde for the Petitioner.

Mrs. M.P. Thakur, Assistant Government Pleader for the
Respondents.

....

**CORAM: KSHITIJ R. VYAS, C.J. &
DR.D.Y.CHANDRACHUD, J.**

20th April, 2006.

P.C. :

In the present case, the challenge to the acquisition is that the Commissioner while issuing a declaration under Section 6 of the Land Acquisition Act, 1894 has not considered the report under Section 5A submitted by the Sub-Divisional Officer and the District Resettlement Officer to the effect that the lands were less than the slab and did not fall for acquisition. In the Petition it has also been submitted in paragraph VII that in pursuance of a decree dated 28th July, 1983 an area admeasuring 72 Ares out of Gat No.369 was handed over to the Petitioner's brother and that a

mutation entry was carried out on 2nd July, 1989 in the revenue records. Hence, it has been submitted that the total holding of the Petitioner was 1 Hectare 69 Ares which was below the slab. Having regard to the submission, it would be appropriate if the grievance of the Petitioner is directed to be reconsidered by the Commissioner. The Commissioner shall pass fresh orders after affording to the Petitioner an opportunity of being heard. It would be open to the Commissioner to cause a fresh survey to be carried out for the purpose of determining the area under the residential house and cattle shed. The Commissioner shall arrive at a determination within three months. Until then status quo in regard to possession shall be maintained. If the Commissioner holds that the lands of the Petitioner are required to be acquired, it would be open to the Petitioner to offer alternative lands for acquisition and if this is done, any such request shall be considered by the competent authority in accordance with law.

The Petition is accordingly disposed of.

CHIEF JUSTICE

(DR. D.Y. CHANDRACHUD, J.)